

(11/15/00)

UNITED STATES COURT OF INTERNATIONAL TRADE

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| <p>[Plaintiff's Name],</p> <p>Plaintiff,</p> <p>v.</p> <p>[Defendant's Name],</p> <p>Defendant.</p> | <p>Court No.</p> |
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ORDER GOVERNING PREPARATION FOR TRIAL

The parties are hereby directed to eliminate any undisputed and peripheral matters, and to proceed to a final definition of the issues to be tried.

If this matter is not to be concluded by dispositive motion filed on or before *[date dispositive motions are due]*, this Order will govern this matter.

To carry out the foregoing, IT IS ORDERED:

I. Pretrial Conference: Counsel shall participate in a pretrial conference on *[date of pretrial conference] at (10:30 A.M. or 3:00 P.M.)*, at/by *(at the court or by telephone initiated by counsel)*.

II. Settlement Conference: Prior to the pretrial conference, counsel shall meet and make a good faith attempt to settle the issues of this action. Counsel shall produce a certification of their settlement efforts, including an assurance that they have conferred with their clients, have exchanged offers, have identified obstacles to settlement, and have considered options for overcoming them.

III. Exchange of Documents and Lists of Witnesses: Counsel shall exchange copies of all documents (including any deposition testimony) proposed to be used in evidence and of their lists of witnesses by *[at least 4 weeks before pretrial conference]*. Counsel shall be prepared at the pretrial conference to discuss and have the Court rule on objections.

IV. Pretrial Order: By **(at least 2 weeks before)** the pretrial conference, Plaintiff's counsel shall have prepared and filed with the Court a proposed pretrial order using the form attached. All attorneys are directed to cooperate in the preparation and completion of the pretrial order.

- A. By **[at least 4 weeks before pretrial conference]**, Plaintiff's counsel shall prepare and serve upon Defendant's counsel a proposed pretrial order with attached schedules. Schedule A (names of parties and attorneys), Schedule C (uncontested facts), and Schedule F (triable issues) should be prepared only after consultation with opposing counsel.
- B. Defendant's counsel shall upon receipt of Plaintiff's proposed order and schedules prepare any additional schedules and deliver them in final form to Plaintiff's counsel by **[at least 3 weeks before pretrial conference]** for inclusion in the final pretrial order to be presented to the Court **two weeks before** the day of the pretrial conference. **Counsel are directed to make a good faith effort to reach agreement, or, if agreement cannot be reached, to minimize disagreement with regard to each schedule.** If counsel cannot agree on the content of Schedules A, C and F, separate statements thereof may be included by each counsel, but agreed upon schedules will be appreciated by the Court. Defendant's failure to timely provide Plaintiff with Defendant's schedules may be deemed a waiver of Defendant's right to do so.
- C. When separate schedules are submitted by the parties, Plaintiff's schedules shall be designated with the suffix number 1, e.g., C-1, D-1, E-1, etc. Defendant's schedules shall be designated with the suffix number 2, e.g., C-2, D-2, etc. If additional parties attach schedules, separate identifying suffix numbers, e.g., 3, 4, etc., shall be used for each.

V. Pretrial Summary Memoranda: By **[at least 2 weeks before pretrial conference]**, each counsel shall provide the Court with concise, summary memoranda of law containing:

- (1) All contested and uncontested facts (Schedule C).
- (2) The supporting evidence which the party intends to

introduce at trial. Evidence not included in the statement will not be permitted at trial.

- (3) A brief discussion addressing all the legal issues in dispute.
(All legal issues are to be addressed prior to the commencement of the trial.)

Filing will be deemed completed when received, without the exception provided under USCIT R. 5(e).

VI. Confidential Memoranda: Before the pretrial conference, counsel shall prepare confidential memoranda outlining their settlement posture. Counsel may submit such confidential memoranda, by agreement, to the trial judge at the pretrial conference. Otherwise, counsel shall submit such memoranda to a designated settlement judge.

VII. Exhibits: Immediately following the pretrial conference, counsel shall meet with the courtroom deputy clerk to pre-mark their exhibits, using the numbering assigned to them in the exhibit schedules of the pretrial order.

VIII. Trial: Trial will be set to begin on **[at least 3 weeks after PTC]**.

Donald C. Pogue, Judge

Dated: _____
New York, New York